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OFFICE OF PETITIONS

In re Application of :
Briere, et al. :
Application No. 09/902,475 :
Filed: July 9, 2001 :
Attorney Docket No. 011496/236625 :

This is a decision on the petition under 37 CFR 1.55(c) filed November 28, 2005, for acceptance of an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of the filing date of foreign French application 95 04651, filed April 19, 1995.

The petition under 37 CFR 1.55(c) is **granted**.

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

- (1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on, or after, November 29, 2000;
- (2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2) or in an Application Data Sheet (37 CFR 1.76(b)(6));
- (3) the surcharge as set forth in 37 CFR 1.17(t);
- (4) a statement that the entire delay in the date claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.), and
- (4) the above-identified nonprovisional application must be filed with 12 months of the filing date of the foreign application.

The instant pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Therefore, since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

The above-identified nonprovisional application was filed on July 9, 2001. It is noted that PCT application PCT /FR96/00576 to which the subject application claims priority, was filed on April 16, 1996, within one year of French application 95 04651. On November 28, 2005, a supplemental declaration was received which identifies the foreign application for which priority is claimed by the application number, country, and filing date. The required surcharge of \$1370.00 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority under 35 U.S.C. § 119(a)-(d) is **granted**.

The application is being forwarded to Technology Center 1700, GAU 1722, for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this decision may directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.



Frances Hicks
Petitions Examiner
Office of Petitions

Enclosure: Corrected Filing Receipt